

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ALMA T. MCBROOM,

Plaintiff,

V.

JOHN E. POTTER, et al.,

Defendants.

Civil Action No. 2:06-CV-767-MEF-SRW

MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT OF THE AMERICAN POSTAL WORKERS UNION, AFL-CIO

Comes now defendant American Postal Workers Union, AFL-CIO (“APWU” or “National Union”) and, in accordance with Rule 12(b)(6) of the Federal Rules of Civil Procedure, respectfully moves this Court to dismiss the complaint against the APWU or, in the alternative, to grant summary judgment for the APWU in accordance with Rule 56 of the Federal Rules of Civil Procedure. Summary judgment is appropriate because there are no genuine issues of material fact, and the APWU is entitled to judgment as a matter of law.

In support of this motion, the APWU has included a Memorandum of Law in Support of the Motion to Dismiss or in the Alternative for Summary Judgment, the Declaration of Terry R. Stapleton with attached exhibits, and a proposed order.

Dated: February 20, 2007

Respectfully submitted,

O'DONNELL, SCHWARTZ & ANDERSON, P.C.

By: /s/ Brenda Zwack
Brenda C. Zwack (D.C. No. 482673)
Admitted Pro Hac Vice
1300 L Street, NW, Suite 1200
Washington, DC 20005-4126
Tel (202) 898-1707/Fax (202) 682-9276
bzwick@odsalaw.com

NAKAMURA, QUINN & WALLS LLP

By: /s/ Patrick Nakamura
Patrick K. Nakamura
Alabama Bar No. ASB-1814-A64P
2204 Lakeshore Drive, Suite 130
Birmingham, AL 35209
Tel (205) 870-9989/ Fax (205) 803-4143
nakamura@nqwlaw.com

Attorneys for the American Postal Workers Union,
AFL-CIO

Certificate of Service

I hereby certify that I have this day caused the following people to be served by first class mail postage pre-paid and (with the exception of Alma McBroom) through the Court's electronic filing system with a copy of the foregoing Motion to Dismiss, or in the Alternative, for Summary Judgment of the American Postal Workers Union, AFL-CIO; Memorandum of Law in Support of the Motion to Dismiss; and the Submission of Evidence supporting the foregoing Motion:

Alma T. McBroom
921 Hugh St.
Montgomery, AL 36108

Stephen Michael Doyle
United States Attorney's Office - ALM
Middle District of Alabama
PO Box 197
Montgomery, AL 36101-0197

William Post Roberts, II
Howell, Sarto & Howell
P.O. Box 681864
147 E. Main Street
Prattville, AL 36067

Dated: February 20, 2007

/s/ Patrick Nakamura